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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,667	07/13/2001	Henry K. Hui	JOHNA.062A	6171

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EXAMINER
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CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/904,667

Applicant(s)

HUI ET AL.

Examiner

MONZER R CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03/04/2004
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-4 and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al (U.S.P.N. 5,658,529) in view of Green (U.S.P.N. 3,634,937) and further in view of Yang et al (U.S.P.N. 4,117,085).

With respect to claim 1, Feldman et al teaches the following: placing a device in a sterilizer (col.1, lines 8-11) such that the sterilizer contains a sterilizations load (the devices being the load), the device includes an aluminum surface (col.2, lines 4-5), which further includes a volume of aluminum oxide (col.2, lines 7-8), introducing an amount of hydrogen peroxide vapor (col.10-11 and lines 15-16), a concentration value for the hydrogen peroxide vapor introduced into the sterilizer (col.3, lines 4-5), and sterilizing the device (col.1, lines 9-11). Feldman et al fails to teach an enclosure having an aluminum surface such that the surface includes aluminum oxide and a value for the ratio of the amount of the admitted hydrogen peroxide vapor to the volume of the aluminum oxide. Green teaches a sterilizable aluminum tray or an enclosure (col.4, lines 26-27) having a plurality of walls and a bottom (figure 5) such that the enclosure includes a device (abstract, lines 1-5). Further, Green teaches that it is known to anodize the aluminum enclosure (col.4, lines 25-34), meaning that the aluminum tray will include a certain volume of aluminum oxide. However, Green fails to teach a value for the ratio of the amount of the admitted hydrogen peroxide vapor to the volume of the aluminum oxide. Yang et al teaches values for the ratio of hydrogen peroxide to the volume of alumina, i.e. aluminum oxide (example 3 and example 4). Thus, it would have been obvious to one having ordinary skill in the art to modify the method of Feldman et al to include a ratio for hydrogen peroxide vapor to a volume of aluminum oxide in order

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to reduce the discoloration of alumina (aluminum oxide), which is caused by exposure to high temperatures (Yang et al, abstract, lines 1-3).

With respect to 2-4 and 6, Feldman et al teaches the following: anodized aluminum (col.2, lines 6-7), raw aluminum (col.2, lines 25-27), aluminum surface is coated with a material (col.2, lines 8-10), and material is permeable to hydrogen peroxide vapor (col.2, lines 25-26).

With respect to claim 7, such features were previously discussed above with regard to claim 1.

With respect to claim 8, Green discloses a tray (figure 1, A).

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al (U.S.P.N. 5,658,529) in view of Green (U.S.P.N. 3,634,937) and further in view of Yang et al (U.S.P.N. 4,117,085) and Alexander et al (U.S.P.N. 5,064,083).

With respect to claim 5, Feldman et al, Green, and Yang et al fail to teach the concept of using a polymer. However, Alexander et al teaches the use of a polymer (abstract, lines 1-1-6). Thus, it would have been obvious to one having ordinary skill in the art to modify the method of Feldman et al to include a polymer since polymers are known to possess stability during autoclaving or sterilization processes (Alexander et al, col.4, lines 32-34).

6. Claims 9-11, 15-19, and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al (U.S.P.N. 5,658,529) in view of Green (U.S.P.N. 3,634,937).

With respect to claims 9 and 17, Feldman et al teaches the following: placing a device in a sterilizer (col.1, lines 8-11) such that the sterilizer contains a sterilizations load (the devices being the load), the device includes an aluminum surface (col.2, lines 4-5), which further includes a volume of aluminum oxide (col.2, lines 7-8), introducing an amount of hydrogen peroxide vapor (col.10-11 and lines 15-16), and sterilizing the device (col.1, lines 9-11). Feldman et al fails to teach an enclosure having an aluminum surface such that the surface includes aluminum oxide. Regarding claims 9 and 17, Green teaches a sterilizable aluminum tray or an enclosure (col.4, lines 26-27) having a plurality of walls and a bottom (figure 5) such that the enclosure includes a device (abstract, lines 1-5). Further, Green teaches that it is known to anodize the aluminum enclosure (col.4, lines 25-34), meaning that the aluminum tray will include a certain volume of aluminum oxide. Thus, it would have been obvious to one having ordinary skill in the art to modify the apparatus and method of Feldman et al to include an anodizable aluminum tray in order to provide a tray with its surfaces having different colors (Green, col.4, lines 26-34).

With respect to claims 10-11 and 18-19, Feldman et al teaches that the aluminum is an anodized aluminum (col.2, lines 6-7) and the aluminum is raw aluminum (col.2, lines 25-27).

With respect to claims 15-16 and 23-24, Green teaches that the enclosure is a tray (abstract, lines 1-3) and the enclosure is a container (figure 1, A).

7. Claims 12-14 and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman et al (U.S.P.N. 5,658,529) in view of Green (U.S.P.N. 3,634,937) and further in view of Alexander et al (U.S.P.N. 5,064,083).

With respect to claims 12-14 and 20-22, Feldman et al and Green fail to teach the use of parylene. However, regarding claims 12-14 and 20-22, Alexander et al discloses the following: material is a polymer (abstract, lines 5-6), polymer is a polyaromatic polymer (abstract, lines 5-6), and the polymer is parylene (abstract, lines 5-6). Thus, it would have been obvious to one having ordinary skill in the art to modify the apparatus and the method Feldman et al to include a parylene (polyparaxylylene) coating in order to form a barrier between the member and the contents of the container (abstract, lines 4-6).

### ***Conclusion***

8. The prior art made of record but not relied upon is considered pertinent to applicant's disclosure. Mesa et al (U.S.P.N. 5,354,286) and Nichols (U.S.P.N. 4,617,178) teach similar concepts in sterilizing a device.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 8:30-5:00.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT J WARDEN can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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03/04/2004

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